

Message Text

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PAGE 01 STATE 050367
ORIGIN L-03

INFO OCT-01 EUR-12 ISO-00 CIAE-00 DODE-00 PM-04 H-02
INR-07 NSAE-00 NSC-05 PA-02 PRS-01 SP-02 SS-15
USIA-15 AID-05 EB-08 TRSE-00 STR-04 OMB-01 CEA-01
COME-00 XMB-04 FRB-01 /093 R

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DRAFTED BY L/EUR:KSGUDGEON:EMB
APPROVED BY L/EUR:DAGANTZ
L/EB:JCROOK
EUR/SOV:JCOLBERT
EX-IM:JFLEIG (SUBS)
-----080623Z 064712 /17
R 072300Z MAR 77
FM SECSTATE WASHDC
TO AMEMBASSY MOSCOW

UNCLAS STATE 050367

E.O. 11652: N/A

TAGS: EFIN, CEMA

SUBJECT: CEMA IBEC IMMUNITIES

REFS: A-MOSCOW 502, B-MOSCOW 919, C-MOSCOW 1125,
C-MOSCOW 1378

1. WHILE NOT ALL RELEVANT INFORMATION IS AVAILABLE TO US,
AND WE DO NOT HAVE PERTINENT PROVISIONS OF PROPOSED AGREE-
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MENT BETWEEN IBEC AND WESTERN BANK SYNDICATE, WE ARE
POUCHING FOR EMBASSY'S INFORMATION AN ENGLISH TRANSLATION
OF THE 1963 AGREEMENT AMONGST CEMA MEMBERS CREATING THE
BANK, AND THE BANK'S STATUTES.

2. EMBASSY WILL OBSERVE THAT AS AMONGST PARTIES TO THE
AGREEMENT, A BROAD IMMUNITY IS CONFERRED ON THE BANK AND
ITS REPRESENTATIVES IN THE TERRITORY OF EACH PARTY, AL-
THOUGH THIS MAY BE WAIVED BY THE BANK (ARTICLE XI; SEE

ARTICLE 38 OF THE BANK'S STATUTES, WHICH ARE INCORPORATED BY REFERENCE IN ARTICLE II OF THE AGREEMENT). IT IS EQUALLY CLEAR THAT IBEC CAN SUE AND BE SUED IN COURTS AND IN ARBITRATION (STATUTES, ARTICLES 2, 30, 37). THUS, WHILE IT MAY REQUIRE A TIME-CONSUMING PROCESS OF UNANIMOUS COUNCIL DECISION (STATUTES, ARTICLES 27, 28), FROM OUR READING WE CONCLUDE THAT IBEC MAY BY AGREEMENT SUBMIT

ITSELF TO BINDING ARBITRATION BEFORE AN ESTABLISHED OR AN AD HOC MECHANISM, OR TO THE JURISDICTION OF THE COURTS OF A GIVEN COUNTRY FOR DISPUTE-SETTLEMENT PURPOSES. THE LAW TO BE APPLIED BY THE ARBITRAL BODY OR THE COURT WOULD BE THE LAW OF THAT JURISDICTION UNLESS THE PARTIES TO THE AGREEMENT OTHERWISE PROVIDE.

3. WE WOULD ALSO NOTE THAT, EXCEPT AS OTHERWISE PROVIDED FOR BY AGREEMENT, IBEC IS PRESUMABLY AMENABLE TO SUIT WHEREVER, OUTSIDE OF MEMBER COUNTRIES, IT IS DOING BUSINESS, HAS ASSETS, OR OTHERWISE HAS SOME CONTACT WHICH UNDER THE LAW OF THAT COUNTRY CONFERS JURISDICTION, AND A RESTRICTIVE THEORY OF SOVEREIGN IMMUNITY IS FOLLOWED (AS IN THE U.S. AND U.K.).
VANCE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
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Sent Date: 07-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
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Disposition Event:
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Litigation History:
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Review Exemptions: n/a
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